16-000-3341

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 22 2016

OFFICE OF
THE ADMINISTRATOR

Mr. Basil Seggos
Acting Commissioner
New York Department of Environmental Conservation
625 Broadway, 14th Floor
Albany, New York 12233-1010

Dear Mr. Seggos:

Thank you for your January 14, 2016, letter to U.S. Environmental Protection Agency Administrator Gina McCarthy regarding actions to address perfluorooctanoic acid in drinking water and groundwater. The EPA takes seriously concerns regarding PFOA contamination, and we are actively engaged in advancing the science related to PFOA to provide the best available information to the public, states, tribes and local governments and in working with the state of New York and others to address public-health risks associated with PFOA contamination at specific sites, including Hoosick Falls, New York. I am responding to your request by providing information on the EPA's current efforts related to each of the elements discussed in your letter.

Your letter requests that the EPA lower its provisional health advisory of 400 parts per trillion for PFOA in drinking water to take into account the most current scientific evidence; adopt a protective maximum contaminant level for PFOA under the Safe Drinking Water Act; list PFOA as a hazardous substance under the Comprehensive Environmental Response, Compensation, and Liability Act; and review the remaining uses of PFOA under the Toxic Substances Control Act.

As referenced above, the EPA since 2009 has had a provisional health advisory for short-term exposure to PFOA of 400 parts per trillion. In June 2015 four of the five samples collected from the Hoosick Falls Public Water Supply showed that the drinking water had more than 600 parts per trillion of PFOA in it. In light of these exceedances the EPA made a recommendation to Hoosick Falls residents that they not drink or cook with the water from the public water supply, and the EPA contacted the state health department to urge that the state make the same recommendation. Additionally, the EPA recommended that Hoosick residents with private wells that have not yet been tested for the presence of PFOA ask the state health department to test their wells and use bottled water in the meantime.

Moving forward, the EPA is currently developing an updated lifetime health advisory for PFOA based on the best available science. Health advisories provide federal, state, tribal and local governments with nonregulatory guidance to make decisions in cases where a contaminant is not federally regulated. Once finalized, the new lifetime health advisory will supersede the agency's provisional value for PFOA issued in 2009. The agency expects to finalize and publish the updated health advisory this spring. The EPA is also evaluating PFOA as a drinking-water contaminant in accordance with the process prescribed by the Safe Drinking Water Act. That law provides that, in order for the EPA to regulate a contaminant, the agency must find: (1) the contaminant may have an adverse effect on the health of persons; (2) it is known to occur or has a substantial likelihood to occur in public-water systems with a

frequency and at levels of public-health concern; and (3) in the sole judgment of the Administrator, regulation of the contaminant presents a meaningful opportunity for health-risk reductions for persons served by public-water systems.

In 2009 the EPA included PFOA on the third Contaminant Candidate List. The EPA uses the Contaminant Candidate List to identify priority contaminants for regulatory decision making and information collection. In 2012 the agency included PFOA among the contaminants for which water systems are required to monitor under the third Unregulated Contaminant Monitoring Rule. The agency evaluates data gathered from the Unregulated Contaminant Monitoring Rule to characterize the levels of unregulated contaminants that occur in drinking water and the frequency of that occurrence on a national basis. Once the EPA has received and analyzed the occurrence data from the third Unregulated Contaminant Monitoring Rule in the summer of 2016, the agency will consider that data along with the peer-reviewed health effects assessment supporting the forthcoming final PFOA health advisory to make a regulatory determination on whether to initiate the process to develop a national primary-drinking-water regulation. As it undertakes this process, the EPA will continue to use its health advisory to guide actions with regard to any specific sites involving PFOA contamination of drinking water.

CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan provide the agency broad authorities to address human-health risk from exposures to PFOA, even if it is not listed as a hazardous substance. In this case, when released into the environment, PFOA and all perfluorinated compounds generally fall within the definition of "pollutant or contaminant" in CERCLA Section 101(33). CERCLA Section 104(a)(1) authorizes the EPA and other federal agencies to respond to releases or threatened releases of pollutants or contaminants when the release or potential release may present an imminent and substantial danger to the public health or welfare. Section 104(e) authorizes the agency to obtain information and enter, inspect and sample premises regarding pollutants or contaminants in the same way as for hazardous substances. In addition, the agency has the authority to list a site on the National Priorities List based on risks due to PFOA exposures. Sections 105(c) and (d) of CERCLA require that the National Priorities listing consider risks due to hazardous substances, pollutants and contaminants.

The EPA has been considering actions to address PFOA under our Toxic Substances Control Act authorities. The agency has been working since the late 1990s to investigate and subsequently reduce exposure to long-chain perfluorinated compounds, including PFOA, to curtail such uses whenever less toxic alternatives are available. This has occurred primarily through Significant New Use Rules on long-chain perfluorinated compounds and the 2010/2015 PFOA Stewardship Program on PFOA and related perfluorinated compounds. You can see more at www.epa.gov/assessing-and-managing-chemicals-under-tsca/20102015-pfoa-stewardship-program. At the same time, under the TSCA New Chemicals program the agency is reviewing new substitutes for these substances.

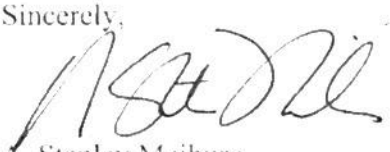
Through the 2010/2015 PFOA Stewardship Program that commenced in 2006 the manufacturers of PFOA committed to voluntarily phase out PFOA and PFOA-related chemicals, including potential PFOA precursors, by the end of 2015. Companies in the program committed to reduce global facility emissions and product content of PFOA and related chemicals by 95 percent by 2010 and to work toward eliminating emissions and product content by 2015. Most recent progress reports indicate that companies have met the phase-out goal. The EPA is currently reviewing final progress reports that the companies submitted at the end of February. Leading up to the PFOA Stewardship Program and to complement it, the agency has developed Significant New Use Rules to allow the EPA to review new uses of long-chain perfluorinated compounds before they are commercialized.

These Significant New Use Rules require that anyone who intends to manufacture, including import, or process any chemicals for uses contained in the Significant New Use Rules, submit a notification to the agency at least 90 days before beginning the activity. This provides the agency with an opportunity to review and, if necessary, place limits on manufacturers or processors who intend to reintroduce or import products with these chemicals. Since 2000 the EPA has published Significant New Use Rules impacting several hundred perfluorooctyl sulfonyls and perfluoroalkyl sulfonates. The most recent finalized Significant New Use Rules were in 2013 and addressed long-chain perfluorinated compounds as part of carpets or carpet-treatment products. The agency anticipates finalizing a separate Significant New Use Rules later this year to ensure that perfluorinated compounds phased out as part of the 2010/2015 PFOA Stewardship Program do not re-enter the marketplace without review. The EPA is also assessing ongoing uses of perfluorinated compounds, particularly those that can degrade to PFOA, and will determine the appropriate action to address potential risks from these chemicals.

Finally, the EPA recently added perfluoroalkyl compounds to the multiyear agenda for the agency's Integrated Risk Information System program. The IRIS program is working with the Office of Water and other EPA programs and regions to determine the range of perfluoroalkyl compounds for which an IRIS assessment is needed. The IRIS multiyear agenda is available at www.epa.gov/iris/iris-agenda.

In summary, the EPA is currently engaged in numerous actions to protect the public from potential health risks posed by PFOA. I thank you once more for your letter. If you have further questions, please contact me or your staff may contact Cathy Davis in the EPA's Office of Congressional and Intergovernmental Relations at davis.catherinem@epa.gov or (202) 564-2703.

Sincerely,



A. Stanley Meiburg
Acting Deputy Administrator